

IN THE MATTER OF:	*	BEFORE THE MARYLAND
MARYLAND ENVIRONMENTAL	*	DEPARTMENT OF THE
SERVICE AND THE	*	ENVIRONMENT
DEPARTMENT OF PUBLIC	*	
SAFETY AND CORRECTIONAL		
SERVICES	*	

* * * * *

CONSENT ORDER

This CONSENT ORDER ("Order") is issued pursuant to the authority vested in the Maryland Department of the Environment ("Department" or "MDE") by Titles 1, 5 and 9 of the Environment Article of the Annotated Code of Maryland to regulate the proper conservation, protection, use and appropriation of the surface waters and ground waters of the State and to ensure proper operation and provision of safe water for persons relying on public water systems and to enforce such laws and regulations.

WHEREAS the Eastern Correctional Institution located at 30402 Revells Neck Road, Westover, Somerset County, Maryland ("ECI"), is a facility operated by the Maryland Department of Public Safety and Correctional Services ("DPSCS") that currently houses approximately 3300 inmates;

WHEREAS the Maryland Environmental Service (MES), an agency of the State of Maryland, is responsible for the operation and maintenance of the wells and water treatment plant and wastewater system that services ECI and the Somerset County Detention Center;

WHEREAS on June 6, 2006, the Department issued Water Appropriation and Use Permits, SO1984G001(07) and SO1984G101(06) to MES for water supply for ECI and the

Somerset County Detention Center. Permit SO1984G001(07) authorizes the withdrawal of water from the Manokin Aquifer at the rate of 25,000 gallons per day (gpd), as an annual average, and 75,000 gpd during the month of maximum use. Permit SO1984G101(06) authorizes the withdrawal of water from the Patapsco Aquifer at the rate of 900,000 gpd, as an annual average, and 1,000,000 gpd during the month of maximum use;

WHEREAS in June and July of 2007, the Department received notice that many persons using individual domestic wells completed in the Manokin Aquifer were unable to withdraw water from their wells;

WHEREAS MDE and MES acknowledge that there are multiple users of the Manokin aquifer in the region, which are all contributing toward lowered aquifer water levels;

WHEREAS investigations by MDE disclosed that usage, reported by MES, from the Manokin Aquifer, for ECI and the Somerset County Detention Center since June 1, 2006 through June 30, 2007 has averaged about 204,835 gpd with no month below the maximum use limit of 75,000 gpd. These quantities are significantly in excess of the permitted withdrawal amounts;

WHEREAS MES has acknowledged that it is aware of this appropriation of water in excess of the quantity permitted from the Manokin Aquifer;

WHEREAS MES has acknowledged that the current reverse osmosis system for treating the water from the Patapsco Aquifer was not functioning properly, and is inadequately sized for the current demand and needs upgrading;

WHEREAS MES has acknowledged that the quality of treated wastewater serving the facility cogeneration plant has exceeded the capacity of the filters at the cogeneration facility, thereby resulting in the use of additional ground water;

WHEREAS MES has identified actions that can be taken to bring ECI's usage of water from the Manokin aquifer to within permitted quantities, improve the design and operation of the water treatment facility, and is willing to take those actions; and

WHEREAS MES and MDE both wish to resolve the violation of exceeding the permit withdrawal limits and improve the water treatment plant performance, and agree that this Order is the most efficient means of doing such.

NOW, THEREFORE, the Department ORDERS and MES and DPSCS CONSENTS to the following terms and conditions

CORRECTIVE ACTIONS

I. Immediate corrective measures

A. Bypass of Reverse Osmosis System

1. Prior to any bypass of the reverse osmosis system, DPSCS shall review all available water quality data, including, but not limited to sodium levels, to determine the suitability of using untreated water at ECI. If special medical needs exist for any of the users of the untreated water system, DPSCS must provide an alternative drinking water supply to those users until adequate treatment is in place.

2. Upon completion of this review MES may temporarily bypass the use of its current reverse osmosis treatment process until it is repaired and placed into service as required by Paragraph I (B) herein, provided that alternative drinking water supplies are available to those users who require them.

B. By August 15, 2007, MES shall complete repairs to and place into service the existing reverse osmosis treatment process. If water demand exceeds the

design capacity of the existing reverse osmosis treatment process, it may be bypassed until the new reverse osmosis treatment plant is constructed as required by Paragraph II (A) herein.

- C. Beginning on August 8, 2007, MES shall install water meters on the service line for each housing unit, for the purpose of monitoring water consumption in those units. MES shall complete the installation of the most critical meters, as agreed upon by MDE and MES, by September 1, 2007, with the installation of all meters to be completed by MES by October 31, 2007.
- D. By August 31, 2007, DPSCS shall have completed a thorough investigation of all plumbing fixtures and related appurtenances for the purposes of discovering leaks and waste of water.
- E. By August 31, 2007, The DPSCS shall conduct a water audit of the ECI facilities in accordance with MDE guidance. The findings of the investigation and the audit shall be reported to MES and MDE by September 13, 2007.
- F. By August 31, 2007, MES shall limit withdrawal from the Manokin aquifer to comply with the appropriation permit.
- G. By November 1, 2007, the DPSCS shall complete a Water Conservation Plan for the ECI facilities using MDE guidance that includes an implementation plan. Consideration should be given to overall reduction in water-use and reduction of daily peak demands.
- H. By December 31, 2007, MES shall complete the design of the short-term wastewater treatment plant improvements, including, at a minimum, improvements to the head works, flow equalization, and clarifier flow

balancing and submit a construction permit application to the Department. Within 12 months of issuance of the MDE construction permit, the construction of the short-term wastewater treatment plant improvements shall be completed.

- I. By December 31, 2007, MES shall install a new self-cleaning filter at the Cogeneration facility to treat the wastewater treatment plant effluent.

II. Long term corrective measures

- A. By January 31, 2008, MES shall submit to the Department a construction permit application, together with plans and specifications for the installation of a new permanent reverse osmosis water treatment plant that can provide potable water that meets all State and federal primary and secondary maximum contaminant limits. Within 6 months of issuance of the MDE construction permit, the construction of the new permanent water treatment plant shall be completed.
- B. By October 1, 2008, MES shall submit to the Department a construction permit application together with plans and specifications for the installation of an upgraded and expanded permanent wastewater treatment plant. Within 24 months of issuance of the MDE construction permit, the construction of the upgraded and expanded permanent wastewater treatment plant shall be completed.

III. Miscellaneous provisions

- A. Nothing in this Consent Order shall be construed to alter MES's obligation to assure that all its installations and processes at ECI are in full compliance with all applicable laws and regulations, except as provided herein.
- B. This Consent Order shall not be construed to create any rights in persons other than MDE, MES and DPSCS.
- C. This Consent Order embodies the entire agreement between the parties. There are no promises, terms, conditions, or obligations referring to the subject matter of this Consent Order, other than those contained herein or incorporated by reference.
- D. The Department reserves the right to seek other appropriate relief should MDE conclude that the provisions of this Consent Order have been or will be ineffective in securing timely compliance.
- E. Force Majeure:
 - 1. The obligation of MES and DPSCS to meet any requirement set forth in this Consent Order may only be excused to the extent that such a delay is beyond the reasonable control of and without the fault of MES and/or DPSCS. Circumstances beyond the reasonable control of MES and/or DPSCS include acts of God; war; riot; civil commotion; sabotage; illegal Federal or State failure to grant any required permit; strike or other labor action; fire; flood; epidemic; quarantine restriction; or embargo; or any other similar event not within the reasonable control of MES and/or DPSCS. Increased costs or equipment disputes shall not constitute an

appropriate justification to excuse noncompliance with any of the terms of this Consent Order.

2. MES and/or DPSCS shall notify the Department in writing within 10 days of the event which causes or may cause delay, describing in detail the anticipated length of the delay, the precise cause or causes of delay, the measures taken and to be taken by MES and/or DPSCS to prevent or minimize the delay, and the timetable by which those measures will be implemented. MES and/or DPSCS shall adopt all reasonable measures to avoid or minimize any such delay.
 3. Failure by MES and/or DPSCS to comply with the notice requirements of paragraph 2 above constitutes a waiver of the right of MES and/or DPSCS to request an extension of the obligations of MES and/or DPSCS under this Consent Order based on such incident.
 4. The burden of proving that any delay was beyond the control of, and without the fault of, MES and/or DPSCS is on MES and/or DPSCS.
- F. Nothing in this Consent Order shall be construed to limit any authority of the Department to issue any other Orders, enforce any applicable permits, or to take any action it deems necessary to protect the public health or comfort, or to limit any authority the Department now has or may hereafter be delegated, or as a waiver of the obligation of MES and/or DPSCS to comply with the permit. The Department's approval of plans and specifications pursuant to this Consent Order does not in any way warrant that the plans and specifications will be successful in controlling water pollution, reducing

permit violations or ensuring drinking water meets State and federal standards.

- G. Any modification of this Consent Order must be in writing, and agreed to and signed by all the parties.
- H. The Order shall be in effect until all of its requirements have been fulfilled.
- I. The effective date of this Consent Order shall be the date upon which MDE countersigns the Consent Order.

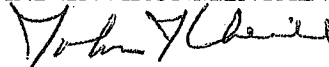
This Consent Order is agreed to and the terms and conditions herein consented to:

Signature Page for Consent Order in:
*Maryland Environmental Service and the Department of Public Safety and Correctional Services
before the Maryland Department of the Environment*

MARYLAND ENVIRONMENTAL SERVICE

By:

Title:



John J. O'Neill

Date 08/07/07

Deputy Director

Signature Page for Consent Order in:
*Maryland Environmental Service and the Department of Public Safety and Correctional Services
before the Maryland Department of the Environment*

MARYLAND DEPARTMENT OF PUBLIC
SAFETY AND CORRECTIONAL SERVICES

By: David N. Bezanson

Title: Assistant Secretary

Date August 7, 2007

David N. Bezanson

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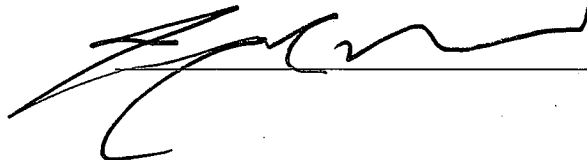
MARYLAND DEPARTMENT OF THE
ENVIRONMENT

By: Jay G. Sakai

Title: Director

Date

8/7/07

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Approved this 7th day of August, 2007,
as to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "Judah Prero", written over a horizontal line.

Judah Prero

Assistant Attorney General